IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

Crl.L.P..No. 287 of 2007()

CC.17/2007 of J.M.F.C.-II,KOTTARAKKARA

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PETITIONER/COMPLAINANT

KOMALAVALLY.R., PUNNAVILA VEEDU,
KUDAVATTOOR P.O., ODANAVATTAM VILLAGE.

BY ADV. SRI.P.B.SURESH KUMAR

RESPONDENTS: ACCUSED AND STATE:

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1. M.RAJENDRAN, RAJ BHAVAN, THAZHAM,
KARIMPINPUZHA, PUTHOOR VILLAGE.

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P.SRI.PUZHAKKARA MUHAMMED FOR R2

THIS CRIMINAL LEAVE PETITION HAVING BEEN FINALLY HEARD ON 26/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K. Thankappan, J.

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Crl.L.P. No. 287 of 2007

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Dated this the 26th day of June, 2007

O R D E R

This is a petition to special leave to appeal filed by the complainant in C.C.No.No.17/2007 on the file of the Judicial Magistrate of the First Class -III, Kottarakkara. As per the complaint, the allegation against the 1st respondent is that he borrowed an amount of Rs.1,50,000/- from the petitioner and in discharge of the above debt, he issued Ext.P1 cheque to her and when the cheque was presented for encashment, it was dishonoured for insufficiency of funds. On complying statutory formalities, the complaint has been filed before the court. To prove the case against the 1st respondent the petitioner herself was examined as PW1 and Exts.P1 to P5 were marked. When the 1st respondent was questioned under section 313 Cr.P.C., he denied the transaction. He stated that he borrowed a sum of Rs.50,000/- from Sreenarayana Charitable Trust on 31-3-2003 and as a security, he issued three blank cheques and stamp paper worth Rs.50/- to D.S.Dathan who was the President of the Trust and one of the above cheques was misused by the petitioner to file the complaint. To prove the case of the defence, DW1 and DW2 were examined and Exts.D1 to D9 were marked.

After considering the entire evidence, the trial court found that the petitioner failed to establish that Ext.P1 cheque was issued to her in discharge of a legally enforceable debt and hence the 1st respondent was acquitted. Against the above finding, this petition has been attempted by the petitioner.

2. This Court heard the learned counsel for the petitioner and perused the records made available to this Court.

3. The case of the petitioner is that the 1st respondent borrowed a sum of Rs.50,000/- from her and when she demanded the amount, the 1st respondent issued Ext.P1 cheque to her. The trial court on appreciating the entire evidence found that Ext.P1 cheque was the issued by the 1st respondent to Dathan and there was absolutely no transaction between the petitioner and the 1st respondent and hence the complainant fails to establish that Ext.P1 cheque was issued to her in discharge of a legally enforceable debt.

2. Having considered the arguments of the learned counsel for the petitioner and having perused the materials placed on records, this Court

finds that the findings entered by the trial court are correct and hence they require no interference by this Court. Hence, leave to appeal is rejected.

K. Thankappan,
Judge.

mn.

K.Thankappan,J.

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Crl.l.P.No. /200

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ORDER

-6-2007